

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

333 South Grand Avenue
Los Angeles, CA 90071-3197
Tel 213.229.7000
www.gibsondunn.com

Theodore J. Boutrous, Jr.
Direct: +1 213.229.7804
Fax: +1 213.229.6804
TBoutrous@gibsondunn.com

March 6, 2024

VIA ECF

Nwamaka Anowi
Clerk of Court
U.S. Court of Appeals for the Fourth Circuit
1100 East Main Street, Suite 501
Richmond, VA 21319

Re: *City of Charleston v. Brabham Oil Co.*, No. 23-1802
Defendants-Appellants' Response to Plaintiffs-Appellees' Notice of Supplemental
Authority

Dear Ms. Anowi:

Defendants-Appellants respectfully respond to Plaintiffs-Appellees' notice of supplemental authority regarding the decision by a panel of this Court in *Anne Arundel County v. BP p.l.c.*, No. 22-2082, __ F.4th __, 2024 WL 764140 (4th Cir. Feb. 24, 2024).

Defendants respectfully disagree with the panel's decision in *Anne Arundel*, and those Defendants that are also involved in that case are evaluating their options for further review of that ruling. Defendants acknowledge, however, that *Anne Arundel* presently forecloses their federal officer removal and *Grable* arguments in this appeal. Importantly, however, the primary argument advanced by Defendants in this appeal—that the district court erred in holding that the two non-diverse Defendants in this litigation were not fraudulently joined—is unaffected by *Anne Arundel* and requires resolution in this appeal. *See* OB.14-35. This issue has not been addressed by this Court or by any other federal court of appeals in any of the climate lawsuits to date.

Sincerely,

/s/ Theodore J. Boutrous, Jr.

Theodore J. Boutrous, Jr.
GIBSON, DUNN & CRUTCHER LLP
Counsel for Defendants-Appellants
Chevron Corporation and Chevron U.S.A.

cc: All counsel of record (via ECF)